

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ANTHONY ANTILIA,

Plaintiff,

v.

A. MANSDORFER, et al.,

Defendants.

No. 1:20-cv-00298-NONE-EPG (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, DISMISSING  
ACTION AND DIRECTING THE  
CLERK OF COURT TO ASSIGN  
DISTRICT JUDGE AND CLOSE CASE

(Doc. Nos. 1 & 10)

Anthony Antilia (“plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 29, 2020, the assigned magistrate judge entered findings and recommendations, recommending that “[t]his action be dismissed for failure to state a claim” and that “[t]he Clerk of Court be directed to close the case.” (Doc. No. 10 at 8.)

Plaintiff was provided an opportunity to file objections to the findings and recommendations. Plaintiff filed his objections on July 21, 2020. (Doc. No. 13.)

Plaintiff first objects that he declined to consent to have a magistrate judge hear this action. (Doc. No. 13 at 1.) Plaintiff’s objection in this regard is not well-taken. The fact that the magistrate judge issued findings and recommendations—rather than a final ruling—is a consequence of plaintiff not having consented to magistrate judge jurisdiction over this action.

1 The undersigned will ultimately rule *de novo* on any dispositive motions (i.e., motions that  
2 dispose of any claim or party) in this case unless and until all parties consent to the magistrate  
3 judge.

4 Plaintiff's other "objections" simply re-state various general legal standards. (*See* Doc.  
5 No. 13.) Nonetheless, in accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local  
6 Rule 304, this court has conducted a *de novo* review of this case. Having carefully reviewed  
7 the entire file, the court finds the findings and recommendations to be supported by the record  
8 and proper analysis. Plaintiff has alleged that he suffered a foot injury while he was working at  
9 his prison job assignment at the California Correctional Institution, in Tehachapi, California.  
10 (Doc. No. 1 at 6.) He has further alleged that prison medical providers did not initially  
11 diagnose or recognize the seriousness of his injury. (*Id.* at 6–9.) However, the court agrees  
12 with the magistrate judge that while the allegations of plaintiff's complaint might make out a  
13 claim for medical negligence, they do not state a claim for deliberate indifference. (*See* Doc.  
14 No. 10 at 6–7.) Put simply, the complaint fails to contain factual allegations suggesting that  
15 any defendant knew the extent of plaintiff's injuries yet failed to treat those injuries. The  
16 complaint in fact alleges that defendants took various steps to diagnose and treat plaintiff's  
17 injuries. (*See* Doc. No. 1 at 6–9.) Although plaintiff alleges that the diagnostic and treatment  
18 actions taken were insufficient and untimely, he fails to allege facts that suggest any defendant  
19 had knowledge of and disregarded a serious medical need or that the treatment provided was  
20 medically unacceptable under the circumstances.

21 For the reasons set forth in the findings and recommendations, the court also agrees that  
22 the complaint fails to state a cognizable claim against Defendant Thomas related to back pain  
23 medication or any supervisory claim against U. Baniga related to the provision of medical  
24 equipment. (*See* Doc. No. 10 at 7–8.)

25 Plaintiff has elected not to amend his complaint. (Doc. No. 9.)

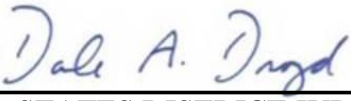
26 Accordingly, THE COURT HEREBY ORDERS that:

- 27 1. The findings and recommendations issued on May 29, 2020, (Doc. No. 10), are  
28 ADOPTED IN FULL;

2. This action is dismissed for failure to state a claim; and
3. The Clerk of Court is directed to assign a district judge to this case for the purpose of closing the case and then to close this case.

IT IS SO ORDERED.

Dated: August 19, 2020

  
UNITED STATES DISTRICT JUDGE